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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/619,957	07/20/2000	James F. Kohli	GEMS:0085	3647
7590	01/22/2004		EXAMINER	
Patrick S Yoder Suite 330 7915 FM 1960 West Houston, TX 77070				MORGAN, ROBERT W
		ART UNIT	PAPER NUMBER	
		3626		

DATE MAILED: 01/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/619,957	KOHLI, JAMES F.
	Examiner Robert W. Morgan	Art Unit 3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 07 November 2003.
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-37 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a)  The translation of the foreign language provisional application has been received.
- 14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4)  Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_

## DETAILED ACTION

1. This communication is in response to the amendment filed 11/7/03, in paper number 4.

Claims 35-37 have been added. Now claims 1-37 have been presented for examination.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-11 and 29-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,006,191 to DiRienzo in view of U.S. Patent No. 6,598,011 to Howards Koritzinsky et al., for the same reasons given in the previous Office Action (paper number 2).

Further reasons appear below.

(A) As per claim 35, it repeats the subject matter of claim 1, as a set of “computer program”, “computer readable medium” and “computer code” elements rather than a series of steps. As the underlying processes of claim 1 has been shown to be obvious in view of the teachings of DiRienzo and Howards Koritzinsky et al. in the above rejections of claim 1, it is readily apparent that the system disclosed by DiRienzo and Howards Koritzinsky et al. includes a computer program including computer code on a computer readable medium to perform these functions. As such, these limitations are rejected of the same reasons given above for method claim 1, and incorporated herein.

4. Claims 12-28, 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,598,011 to Howards Koritzinsky et al., for the same reasons given in the previous Office Action (paper number 2). Further reasons appear below.

(A) As per claims 36 and 37, they repeat the subject matter of claims 12 and 19, as a set of “computer program”, “computer readable medium” and “computer code” elements rather than a series of steps. As the underlying processes of claims 12 and 19 has been shown to be obvious in view of the teachings of Howards Koritzinsky et al. in the above rejections of claims 12 and 19, it is readily apparent that the system disclosed by Howards Koritzinsky et al. includes a computer program including computer code on a computer readable medium to perform these functions. As such, these limitations are rejected of the same reasons given above for method claim 1, and incorporated herein.

***Response to Arguments***

5. Applicant's arguments filed 11/7/03 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 11/7/03.

(A) In the remarks, Applicants argue in substance that the Howards Koritzinsky et al. patent (6,598,011) and the claimed invention were and are under an obligation of assignment to the same person namely General Electric Company or one of its wholly owned and controlled subsidiaries and therefore does not qualify as prior art under Section 103(c) of the Patent Statute. It is respectfully submitted that the Examiner agrees that the instant application 09/619957 is assigned or under an obligation of assignment to General Electric Company at the time it was made. However, the Examiner has reviewed and checked the assignment data of the Howards

Koritzinsky (011) patent (application 09/199622) and no assignment has been recorded and no assignment papers indicating an assignment of the 011 patent (application 09/199622) was made to General Electric Company or one of its wholly owned and controlled subsidiaries at the time the instant application 09/619957 was filed. Therefore, the applied reference of Howards Koritzinsky et al. qualifies as prior art and the rejection is maintained.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (703) 605-4441. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703) 305-9588. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

RWM  
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Alexander Baldwin  
ALEXANDER BALDWIN  
PRIMARY EXAMINER  
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